

IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1272 OF 2006

Shri Rajendraprasad Khandelwal, .. Petitioner

Vs

1. State of Maharashtra & anr. .. Respondents.

Mr S.V.Marwadi, for the petitioner.

Mr Ashok Wanwari, for respondent no.2.

Mrs M.M.Deshmukh, APP for the respondent-State.

CORAM : D.B.BHOSALE, J.

DATED : 11th August, 2006

P.C.:

1. Heard the learned counsel for the parties.

2. This writ petition is directed against the orders passed by the courts below rejecting the application filed by the petitioner-accused seeking permission to examine 33 defence witnesses. Mr Marwadi, learned counsel for the petitioner, submits that he has instructions not to press this petition and the petitioner will be satisfied if he is allowed to renew his application for examining defence witness/s after examining himself as defence witness and laying foundation for making such application. He further submits that the petitioner-accused would file necessary application under section 315 of Cr.P.C seeking permission of the Court to examine himself as defence witness. Mr Wanwari, learned counsel for the respondent-complainant, states that he has no objection if such liberty is granted, however, his

consent for granting such liberty shall not be construed to mean that he has agreed for allowing the petitioner to make an application for examining 33 defence witnesses and he reserves his right to oppose any such application for examining unnecessary witnesses at any subsequent stage. In view of the submissions of the learned counsel for the parties, in my opinion, interest of justice would be met by the following order.

(i) This petition is dismissed, as not pressed. Liberty, as aforestated, is granted subject to the respondent-complainant's right to oppose an application for examining unnecessary persons as defence witnesses. Grant of liberty shall not be construed as a permission to examine any number of persons as defence witnesses to the petitioner. If any such application is filed, it may be considered in the light of the deposition of the accused.

(ii) As the complaint under section 138 is pending since 1998, the trial Court shall endeavour to dispose it off as expeditiously as possible and preferably within a period of six months from the date of receipt of this order.

(D.B.BHOSALE, J.)